

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE ALTA MESA RESOURCES, INC.
SECURITIES LITIGATION

Case No. 4:19-cv-00957

Judge George C. Hanks, Jr.

ORAL ARGUMENT REQUESTED

**DEFENDANTS’ MOTION TO FILE UNDER SEAL
DEFENDANTS’ OPPOSITIONS TO CLASS PLAINTIFFS’ MOTIONS
IN LIMINE NOS. 1-6 AND THE SUPPORTING DECLARATIONS OF
MATTHEW J. PETERS AND ACCOMPANYING EXHIBITS
IN SUPPORT OF THEIR OPPOSITIONS TO
CLASS PLAINTIFFS’ MOTIONS *IN LIMINE* NOS. 1, 2, 3, 4, 5 AND 6**

Pursuant to Rule 6 of the Administrative Procedures for Electronic Filing in Civil and Criminal Cases, Section (C)(7) of the Court’s Procedures, and the Parties’ Stipulation and Protective Order (ECF Nos. 174, 190), Defendants Alta Mesa Resources, Inc., Riverstone Holdings LLC, Harlan H. Chappelle, Michael E. Ellis, William D. Gutermuth, James T. Hackett, Ronald J. Smith, Jeffrey H. Teppner, and Diana J. Walters (together, “Defendants”) hereby request leave of Court to file under seal the unredacted versions of the following: 1) Defendants’ Opposition to Plaintiffs’ Motion *in Limine* No. 1: Motion to Preclude Evidence or Argument Regarding Reliance on Undisclosed Third Parties, Declaration of Matthew J. Peters and accompanying Exhibits 1 - 29 in support of same; 2) Defendants’ Opposition to Plaintiffs’ Motion *in Limine* No. 2: Motion to Preclude Evidence or Argument Regarding Reliance on Advice of Counsel, Declaration of Matthew J. Peters and accompanying Exhibit 1 in support of same; 3) Defendants’ Opposition to

Plaintiffs’ Motions *in Limine* No. 3: Motion to Preclude Evidence or Argument Regarding the Post-Hoc Investigation and Conclusions of KPMG; 4) Defendants’ Opposition to Plaintiffs’ Motions *in Limine* No. 4: Motion to Preclude Evidence Concerning the Individual Action Plaintiffs’ Damages Expert; and 5) Defendants’ Opposition to Plaintiffs’ Motion *in Limine* No. 5: Motion to Preclude Evidence or Argument as to the Class’s Aggregate Damages, Declaration of Matthew J. Peters and accompanying Exhibits A - D in support of same; and 6) Defendants’ Opposition to Class Plaintiffs’ Motion *in Limine* No. 6: Motion to Preclude Character Evidence and Evidence of Religious Belief, Opinions and Activities, Declaration of Matthew J. Peters and accompanying Exhibit 1 in support of same.

BACKGROUND

On June 1, 2021, the parties filed a Stipulation and Protective Order, which the Court approved on August 17, 2021 (the “Protective Order”) (ECF Nos. 174, 190). The Protective Order allows the parties to designate certain sensitive materials as “Confidential” or “Confidential – Attorney’s Eyes Only.” ECF No. 190 ¶¶ 4-9. If a party later files a document that it has designated “Confidential” or “Confidential – Attorney’s Eyes Only,” the party must file a motion to file under seal pursuant to the Court’s procedures the Protective Order. *Id.* ¶ 24.

On October 20, 2024, counsel for Defendants notified the parties who had designated as Confidential pursuant to the Protective Order documents that are exhibits to the Motions *in Limine*, about their intent to file their Motions *in Limine* and accompanying

declaration and exhibits under seal and listed the specific documents to be filed under seal in the attached Appendix. The designating parties do not object to the Motion to Seal.

The opposition briefs, declarations and accompanying exhibits to be filed under seal are listed in the attached Appendix.

The Motions *in Limine* Opposition deadline is October 28, 2024.

ARGUMENT

Defendants' Oppositions to Class Plaintiffs' Motions *in Limine* Nos. 1-6 and the Supporting Declarations of Matthew J. Peters and accompanying exhibits of their Oppositions to Class Plaintiffs' Motions *in Limine* Nos. 1, 2, and 5 in support are confidential and sensitive documents subject to the Protective Order. This Court maintains "supervisory power" over its own docket and should act to deny public access to documents "where court files might . . . become a vehicle for improper purposes." *SEC v. Van Waeyenberghe*, 990 F.2d 845, 848 (5th Cir. 1993) (quoting *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 598 (1978)). Courts routinely seal the sensitive business and financial information of parties, recognizing that such information is subject to use for "improper purposes." *See Udoewa v. Plus4 Credit Union*, 754 F. Supp. 2d 850, 884 (S.D. Tex. 2010) (granting a motion to seal where "[t]he excerpts from the [documents] at issue contain extensive financial information of a sort that is often kept confidential") (citing *Cooper Tire & Rubber Co. v. Farese*, 2009 WL 514071, at *1 (N.D. Miss. Feb. 27, 2009) (sealing "sensitive financial documents"))).

CONCLUSION

Pursuant to Paragraph 24 of the Protective Order, the Protected Materials “must be filed under seal on CM/ECF.” Protective Order ¶ 24. Defendants therefore request that the Court grant this Motion to Seal and order the Protected Materials to remain sealed.

APPENDIX OF MATERIALS TO BE SEALED

Exhibit	Description
N/A	<i>Defendants' Opposition to Plaintiffs' Motion in Limine No. 1: Motion to Preclude Evidence or Argument Regarding Reliance on Undisclosed Third Parties</i>
N/A	<i>Appendix A to Defendants' Opposition to Plaintiffs' Motion in Limine No. 1: Motion to Preclude Evidence or Argument Regarding Reliance on Undisclosed Third Parties</i>
N/A	Declaration of Matthew J. Peters in Support of Defendants' Opposition to Plaintiffs' Motion in Limine No. 1: Motion to Preclude Evidence or Argument Regarding Reliance on Undisclosed Third Parties
1	Defendants' Supplemented Initial Disclosures Pursuant to Federal Rule of Civil Procedure 26(a)(1) dated May 24, 2023 (PX 359)
2	Class Plaintiffs' Trial Subpoena Issued to BDO, USA LLP dated October 6, 2021
3	Class Plaintiffs' Notice of Subpoena Issued to Ernst & Young LLP dated June 14, 2021
4	Class Plaintiffs' Notice of Subpoena Issued to JP Morgan Securities LLC dated June 8, 2021
5	Class Plaintiffs' Notice of Subpoena Issued to Schlumberger Limited (Schlumberger N.V.) dated February 9, 2022
6	Class Plaintiffs' Deponent List dated November 18, 2022
7	Excerpted Deposition Testimony of Charles Dunne dated June 8, 2023
8	Excerpted Deposition Testimony of William Gutermuth dated May 9, 2023
9	Defendant Michael Ellis' Amended Responses and Objections to Plaintiffs' First Interrogatories dated July 18, 2023
10	Excerpted Deposition Testimony of Kevin Wang dated March 28, 2023
11	Expert Report of James Johnson dated August 31, 2023
12	Plaintiffs' Initial Disclosures dated June 15, 2021

Exhibit	Description
13	Excerpted Deposition Testimony of Zachary Nye dated November 14, 2023
14	Excerpted Deposition Testimony of Kaye Rasmusson dated February 7, 2023
15	Expert Report of Paul Regan dated August 31, 2023
16	Excerpted Deposition Testimony of Michael Christopher dated June 6, 2023
17	Rebuttal Expert Report of Adam Badawi dated October 19, 2023
18	Excerpted Deposition Testimony of Diana Walters dated April 14, 2023
19	Excerpted Deposition Testimony of Robert Albergotti dated June 27, 2023
20	Excerpted Deposition Testimony of Jim Hackett dated April 27, 2023
21	Supplemental Expert Report Adam Badawi dated November 10, 2023
22	Defendant William Gutermuth's Amended Responses and Objections to Plaintiffs' First Interrogatories dated July 18, 2023
23	Excerpted Deposition Testimony of Paul Dudenas dated November 14, 2023
24	Excerpted Deposition Testimony of Harlan Chappelle dated April 19, 2023
25	Rebuttal Expert Report of Paul Dudenas dated October 19, 2023
26	Expert Report of Frank Gagliardi dated August 31, 2024
27	Excerpted Deposition Testimony of Mark Castiglione dated July 7, 2023
28	Plaintiffs' Second Amended Initial Disclosures dated March 27, 2022
29	Excerpted Deposition Testimony of John Fiebig dated November 16, 2023

Exhibit	Description
N/A	Defendants' Opposition to Plaintiffs' Motion <i>in Limine</i> No. 2: Motion to Preclude Evidence or Argument Regarding Reliance on Advice of Counsel
N/A	Declaration of Matthew J. Peters in Support of Defendants' Opposition to Plaintiffs' Motion <i>in Limine</i> No. 2: Motion to Preclude Evidence or Argument Regarding Reliance on Advice of Counsel
1	Defendants' Supplemented Initial Disclosure Pursuant to Federal Rule of Civil Procedure 26(a)(1) dated May 24, 2023

Exhibit	Description
N/A	<i>Defendants' Opposition to Plaintiffs' Motions in Limine No. 3: Motion to Preclude Evidence or Argument Regarding the Post-Hoc Investigation and Conclusions of KPMG</i>

Exhibit	Description
N/A	<i>Defendants' Opposition to Plaintiffs' Motions in Limine No. 4: Motion to Preclude Evidence Concerning the Individual Action Plaintiffs' Damages Expert</i>

Exhibit	Description
N/A	<i>Defendants' Opposition to Plaintiffs' Motion in Limine No. 5: Motion to Preclude Evidence or Argument as to the Class's Aggregate Damages</i>
N/A	Declaration of Matthew J. Peters in Support of Defendants' Opposition to Plaintiffs' Motion <i>in Limine</i> No. 5: Motion to Preclude Evidence or Argument as to the Class's Aggregate Damages
A	Min. Entry, <i>SeaWorld</i> , No. 14-cv-2129 (S.D. Cal. Jan. 21, 2020)
B	<i>Hsu v. Puma Biotech, Inc.</i> , 15-cv-865, ECF No. 614 at 5 (C.D. Cal. Oct. 24, 2018)
C	<i>Sjunde Ap-Fonden v. Gen. Elec. Co.</i> , No. 1:17-cv-8457, ECF No. 467 at 2 (S.D.N.Y. Sept. 18, 2024)

Exhibit	Description
D	<i>Shenwick v. Twitter, Inc.</i> , No. 16-cv-05314, ECF No. 497 at 23 (N.D. Cal. May 7, 2020)

Exhibit	Description
N/A	<i>Defendants' Opposition to Class Plaintiffs' Motion in Limine No. 6: Motion to Preclude Character Evidence and Evidence of Religious Believe, Opinions and Activities</i>
N/A	Declaration of Matthew J. Peters in Support of Defendants' Opposition to Plaintiffs' Motion <i>in Limine</i> No. 6: Motion to Preclude Character Evidence and Evidence of Religious Believe, Opinions and Activities
1	Email from Jim Hackett to William McMullen dated August 1, 2017 (Trial Exhibit 699)

Dated: October 28, 2024

Respectfully submitted,

/s/ J. Christian Word

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CERTIFICATE OF SERVICE

I certify that on October 28, 2024, a true and correct copy of the foregoing document was filed with the Clerk of Court using the CM/ECF system, which will send electronic notification of such filing to all counsel of record.

/s/ J. Christian Word

J. Christian Word